

**MINNESOTA BOARD OF MEDICAL PRACTICE  
BOARD MEETING  
2829 UNIVERSITY AVE. SE  
MINNEAPOLIS, MN 55414-3246**

**March 9, 2013**

The Minnesota Board of Medical Practice met on March 9, 2013, at its offices in Minneapolis, Minnesota.

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Gregory Snyder, M.D., DABR, President; Keith Berge, M.D., Vice President; Sarah Evenson, J.D., MBA, Secretary; Debbie Boe; Mark A. Eggen, M.D.; V. John Ella, J.D.; Rebecca Hafner-Fogarty, M.D., MBA; Subbarao Inampudi, M.D., FACR; Irshad H. Jafri, M.D., FACP; Kelli Johnson, MBA; Gerald T. Kaplan, MA, LP; Charles Moldow, M.D., Maria Statton, M.D., Ph.D.; Jon Thomas, M.D., MBA; and Joseph Willett, D.O., FACOI

**PUBLIC SESSION**

Agenda Item 1: Call to Order and Roll Call

The board meeting was called to order by Gregory Snyder, M.D., DABR, Board President. Roll call was taken by board staff.

Agenda Item 2: Minutes of the January 12, 2013, Board Meeting

The minutes of the January 12, 2013, Board meeting were received and approved as circulated.

Agenda Item 3: Presentation of the use of Opioids in the Treatment of Chronic Pain

On Wednesday, February 6, 2013, Mr. Leach received a telephone call from Andrew Kolodny, M.D., President of Physicians for Responsible Opioid Prescribing and Chair of the Department of Psychiatry at Maimonides Medical Center in New York.

Dr. Kolodny expressed his disapproval of the Board of Medical Practice educational session on the use of opioids in the treatment of chronic pain which was posted on YouTube. In particular, Dr. Kolodny objected to the segment of Dr. Alfred Anderson talking about myths associated with the use of opioids. Dr. Kolodny asked for the opportunity to address the board. Mr. Leach offered to schedule a discussion for the March meeting. Dr. Kolodny subsequently e-mailed Mr. Leach and said that, rather than his participation by conference call, Dr. Charles Reznikoff would present in person.

Mr. Leach gave a brief introduction of Charles Reznikoff, M.D. Dr. Reznikoff is a staff physician at Hennepin County Medical Center (HCMC) and a consultant at Northfield hospital. He is on the Board of Directors of the Steve Rummier Hope Foundation. Dr. Reznikoff practice consists of 30% general medicine at HCMC, 30% addiction medicine both at Northfield Hospital and HCMC, 30% academic medicine at the University of Minnesota, and 10% serving on an opioid oversight committee at HCMC.

Dr. Reznikoff gave a presentation on the use of opioids in the treatment of chronic pain.

Dr. Reznikoff's conclusions:

1. Addiction and overdose death are expected and dose-related consequences of opioid prescribing.
2. Medical science has not demonstrated safety and efficacy of opioid use for greater than 3 months. Neither has medical science disproven the safety or efficacy opioid use for greater than 3 months.
3. Medical providers lack adequate support, education, and objective clinical measures to safely prescribe opioids.
4. Opioid prescribing leads in prescriber dissatisfaction, and not due to fear of medical board sanctions. It is the relationships with the patients that are challenging.

Dr. Anderson was impressed with Dr. Reznikoff's presentation and agreed with over 90% of it.

Dr. Anderson attended the meeting to advocate for the 15 – 20% of the population that are in severe pain that can't function without the use of opioid prescriptions. Dr. Anderson agrees that there is a problem in this country with opioid addiction. But, the same percentage of the population that abused drugs back in 1938 was approximately 5 – 10%; which is about the same population as now. Dr. Anderson thought that the statistics presented by Dr. Reznikoff didn't take into account that many of the patients may be taking opioids that have not been legitimately prescribed. Also, there are abusers that fall into the category of mental health as opposed to problems with medication. The person that is abusing medication to escape from life has a mental health problem; people that are using medication to increase their ability to function are dependent.

A lengthy discussion followed.

Board staff provided Dr. Reznikoff with a copy of the Second Edition of *Responsible Opioid Prescribing* by Scott M. Fishman for his review and opinion of the book as a resource for physician education. Dr. Reznikoff had not previously read the book because he thought there was industry funding behind it. The board clarified that there was zero industry funding provided toward the book.

Dr. Reznikoff suggestions on how the board could help lead the change:

- Dr. Reznikoff recommended that the board provide updates on addiction, treatments and outcomes available and to treat it as a medical disease.
- Encourage the use of the Prescription Monitoring Program operated by the Minnesota Pharmacy Board.
- Encourage physicians to follow DEA rules about monitoring prescriptions and monitoring pain medications.
- Couple efforts with him and other groups to gain access to the University of Minnesota third or fourth year medical students, and perhaps residents to provide education on the use of opioids in the treatment of chronic pain.

Board staff will e-mail a copy Dr. Reznikoff's slide presentation to board members.

#### Additional Agenda Item: Employer Reporting of Diversion

At the January 2013 Board meeting, Dr. Berge provided a summary of his meeting with Senator Carla Nelson during which they discussed legislation which would strengthen the employer reporting requirement. The board approved a motion to support legislation requiring employers to report health care providers who divert drugs to the appropriate health licensing board. The board requested that draft legislation be brought to the March board meeting. The draft proposed legislation and agenda item were distributed prior to the March board meeting.

Dr. Berge, Mr. Stuart Williams, J.D., public board member of the Board of Nursing and the Board of Pharmacy and the HPSP Program Representative for the Board of Nursing, Mr. Leach,

and Mr. Auld will attend a hearing at the legislature regarding this on March 13, 2013, at noon before the Health and Humans Services Committee of the Senate.

Dr. Berge thanked Mr. Williams, for his help in crafting the language of the draft legislation. Dr. Berge asked Mr. Williams to address the board.

Mr. Williams informed the board that the Nursing Board and Pharmacy Board support the proposed language. The Dentistry board is neutral because so many dentists are self-employed. There is a provision in the language that excludes mandatory reporting for self-employed healthcare professionals.

Mr. Williams spoke to some of the board's concerns. If a healthcare professional is diverting narcotics, they are putting their patients at risk. HPSP does not have the ability or the authority to investigate what that licensee has been doing. If the employer is required to report knowledge of drug diversion, the board can take that information, conduct an investigation and determine if patients are at risk, if patients have been harmed and if there are other problems with the system.

Monica Feider, MSW, LICSW, HPSP Program Manager was asked by the board how she felt about the proposed language. Ms. Feider responded that at the January board meeting she said that she would support this language. She feels this is a much better compromise than the proposed 2012 legislation where HPSP would have been required to report healthcare professionals to the appropriate board for diverting drugs.

Board discussion about the proposed language included the following concerns:

- The language doesn't have a penalty if the employer fails to report the diversion;
- The chilling effect it may have;
- The word 'has' in the proposed language. This could be interpreted that a new employer would have to once again report the healthcare provider that had previously diverted drugs;
- Not enough information about the diversion practices of physicians verses the diversion practices of other healthcare professionals.

After a lengthy discussion, a motion was made and passed to support legislation amending Minnesota Statutes 214.33 to mandate employer reporting of regulated health care providers to the appropriate regulatory board if the employer has knowledge that the regulated person has or is diverting narcotics or controlled substances or has violated a state or federal narcotics or controlled substance law. Voted for: Drs. Berge, Eggen, Moldow, Snyder, Statton, Willett, Ms. Boe and Mr. Kaplan. Voted against: Drs. Hafner-Fogarty and Jafri, Mr. Ella and Ms. Johnson. Abstained: Drs. Inampudi and Thomas and Ms. Evenson.

#### Agenda Item 4: Licensure and Registration

On recommendation of the Licensure Committee, physician applicants 1 - 114 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Licensure Committee, physician applicants 115 - 118 of the agenda were approved for Emeritus registration.

On recommendation of the Acupuncture Advisory Council, acupuncturist applicants 119 - 122 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Athletic Trainers Advisory Council, athletic trainer applicants 123 - 129 of the agenda were approved for registration subject to the receipt of verification documents.

On recommendation of the Physician Assistant Advisory Council, physician assistant applicants 130 - 147 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Respiratory Therapist Advisory Council, respiratory therapist applicants 148 - 160 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Naturopathic Council, naturopathic doctor applicant 161 of the agenda was approved for licensure subject to receipt of all verification documents.

#### Agenda Item 5: Licensure Committee

- Agenda Item 5a: Minutes of the February 28, 2013, Licensure Committee  
Rebecca Hafner-Fogarty, M.D., MBA, Chair of the Licensure Committee presented the minutes of the February 28, 2013, Licensure Committee Meeting.

Dr. Hafner-Fogarty noted the following items from the February 28, 2013, Licensure Committee meeting minutes:

5. A physician applicant who has been allowed to withdraw his application for licensure three times and has reapplied again. This physician practiced without a license in the State of Minnesota and has been cited for fraudulently using another physician's Drug Enforcement Administration (DEA) number. The Licensure Committee recommended a Stipulation and Consent Order for Denial of his Application.
8. The Department of Human Services (DHS) is requesting additional education for physician assistants providing mental health in out-patient settings for Medical Assistance (MA) payment purposes. The Licensure Committee reviewed the proposed requirements and decided that the Committee doesn't have enough information to make a recommendation. The Licensure Committee requests that this be referred to the Policy and Planning Committee.

The minutes and actions of the February 28, 2013, meeting of the Licensure Committee, were approved as circulated.

#### Additional Agenda Item: Moratorium Relating to Lyme Disease

On March 13, 2010, the Board of Medical Practice adopted a resolution agreeing to a voluntary five-year moratorium on investigating, discipline or taking corrective action based solely on long term prescribing or administration of antibiotic therapy for the treatment of chronic Lyme disease. There is two years remaining on the voluntary moratorium.

On March 5, 2013, State Representatives Dettmer, Ward, et.al. introduced HF 1252 limiting the Board of Medical Practice from bringing a disciplinary action against a physician for prescribing, administering, or dispensing long term antibiotic therapy for chronic Lyme disease.

Dick Auld, Assistant Executive Director, recommended that the board vote affirmatively to continue this moratorium for the remaining two years and in addition, request for an independent third party literature review on the topic of Lyme disease therapy to make a determination whether there has been any change in the science on that issue in the intervening five years. Mr. Auld also stated that the board hasn't taken any action against anyone for such treatment and in addition, there have not been any complaints regarding this issue.

After board discussion, a motion was made and passed unanimously that should the status of the bill change and should it progress, that the board oppose the legislation.

After further board discussion, a motion was made and passed that the board reaffirm the moratorium for two years and request a literature search be done to see if there is any change in the status of the literature. Dr. Moldow abstained.

#### Board Agenda Item 6: Delegation to Accept Credential Resignation

The Complaint Review Committees, at times, offer respondent licensees the option of administratively resigning a credential as a means of resolving a pending complaint investigation. Currently, only the Licensure Committee is delegated to accept resignation of a credential. Because the Licensure Committee meets less frequently than the Complaint Review Committees, resolution of complaint matters may be delayed when acceptance of a resigned credential must undergo review by the Licensure Committee. Further, the Licensure Committee has not been involved in the complaint review process and action to accept resignation to resolve a pending complaint would most appropriately come from the reviewing Complaint Review Committee.

Mr. Leach asked the board to delegate authority to Complaint Review Committees to act on administrative resignations of credentials that have been accepted by the reviewing Committees as appropriate resolutions of pending complaints. Dr. Hafner-Fogarty stated that the Licensure Committee has discussed this resolution and supports its passage.

After board discussion a motion was made and passed unanimously that the board delegate the authority to the Complaint Review Committees to act on administrative resignations of credentials that have been accepted by the reviewing Committees as appropriate resolutions of pending complaints.

The board suggested that when a Complaint Review Committee accepts the resignation of a credential that Ms. Hoffman, Supervisor of the Licensure Committee, be notified and then she will include it in the Licensure Committee agenda as information only.

#### Agenda Item 7: Final Report on the Workgroup to Study the Medical Practice Act

Ruth Martinez, MA, Complaint Review Unit Supervisor gave an overview of the Final Report on the Workgroup to Study the Medical Practice Act.

#### Agenda Item 8: Federation of State Medical Boards' (FSMB) Evaluation

At the January 12, 2013, board meeting, Mr. Leach presented a proposal submitted by the Federation of State Medical Boards to do an evaluation of the Minnesota Board of Medical Practice. Because of the high cost of the proposed evaluation, the board instructed Mr. Leach to contact other states which have undergone a FSMB evaluation to determine whether or not they felt it was worthwhile.

Mr. Leach was able to obtain feedback from the Nevada Board of Medical Examiners. The other states which he contacted didn't have any current staff members who were able to give feedback on the FSMB evaluation.

Mr. Leach spoke with Douglas Cooper, Executive Director of the Nevada Board of Medical Examiners. Mr. Cooper said that they are legislatively mandated to undergo a FSMB evaluation every ten years. Mr. Cooper feels that the evaluation is a worthwhile undertaking and that even if the evaluation wasn't mandatory, he would request the FSMB evaluation. Mr. Cooper also finds the results of the evaluation very helpful when the media questions the performance of the Nevada board.

Dr. Roger Day, an audience member was allowed to address the board and he recommended that the board undergo both a legislative audit and the FSMB evaluation.

After board discussion, a motion was made and passed unanimously to table the discussion and bring it back to the board for reconsideration in one year.

Agenda Item 9: FSMB Annual Meeting

Mr. Leach informed Board members that the annual meeting of the Federation of State Medical Boards will be held April 18 – 20, 2013, in Boston, Massachusetts at the Sheraton Boston Hotel and instructed the Board on the reservation procedures. Mr. Leach reminded board members that they must go through Travel Leaders for their airline reservations in order to be reimbursed for plane tickets. Dr. Snyder encouraged board members to attend.

Agenda Item 10: FSMB Women's Networking Reception

Dr. Hafner-Fogarty informed the board that the Women's Networking Reception name has been changed to the Welcome and Women's Networking Reception. This year the Reception will be held on Wednesday, April 17, 2013, from 5:30 pm to 6:30 pm, to avoid scheduling conflicts with the International Reception and the Alabama Board of Medical Practice Reception.

Agenda Item 11: Corrective Action Agreement

The Corrective Action Agreements included in the agenda are for information only.

*End of public session.*

## **EXECUTIVE SESSION**

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Gregory Snyder, M.D., DABR, President; Keith Berge, Vice President; Sarah Evenson, J.D., MBA, Secretary; Debbie Boe; Mark A. Eggen, M.D.; V. John Ella, J.D.; Rebecca Hafner-Fogarty, M.D., MBA; Subbarao Inampudi, M.D., FACR; Irshad H. Jafri, M.D., FACP; Kelli Johnson, MBA; Gerald T. Kaplan, MA, LP; Charles Moldow, M.D., Maria Statton, M.D., Ph.D.; Jon Thomas, M.D., MBA; and Joseph Willett, D.O., FACOI

### **PATRICK S. CARNEY, M.D.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand, conditioned and restricted license signed by Dr. Carney was approved.

### **JAMES D. HANNA, M.D.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand, stayed suspension, conditioned and restricted license signed by Dr. Hanna was approved.

### **MELANIE J. JOHNSON, M.D.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reinstatement of license, stayed suspension, conditioned and restricted license signed by Dr. Johnson was approved. Dr. Willett recused.

### **KEVIN A. KIMM, D.O.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for indefinite suspension of license signed by Dr. Kimm was approved.

### **MARK P. KOCH, D.O.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand and conditioned license was issued to Dr. Koch based on his Alabama Board Order. The Stipulation and Order signed by Dr. Koch was approved.

### **CHRISTOPHER N. MOGA, M.D.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand and conditioned license signed by Dr. Moga was approved.

### **DAVID S. PECORA, P.A.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand, conditioned and restricted license signed by Mr. Pecora was approved. Dr. Statton recused.

There being no further business, the meeting was adjourned.



Sarah Evenson, J.D., MBA  
Secretary  
MN Board of Medical Practice

May 2, 2013  
Date